



ENVIRONMENTAL PROTECTION AGENCY

[FRL- 8519-04-R1]

Notice of Availability of Draft NPDES Small Wastewater Treatment Facilities General Permits Modification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of Draft NPDES General Permits Modification
MAG580000 and NHG580000.

SUMMARY: The Director of the Water Division, U.S. Environmental Protection Agency – Region 1 (EPA), is providing a Notice of Availability for the Draft National Pollutant Discharge Elimination System (NPDES) Small Wastewater Treatment Facility General Permit (Small WWTF GP) Modification for discharges to certain waters of the Commonwealth of Massachusetts and the State of New Hampshire. This Draft NPDES Small WWTF GP Modification (“Draft General Permit Modification”) establishes effluent limitations and requirements, effluent and ambient monitoring requirements, reporting requirements, and standard conditions for 21 additional eligible facilities currently covered by individual NPDES permits (see Attachment E of the Draft General Permit Modification for a list of WWTFs being added to the General Permit; 11 in Massachusetts, 10 in New Hampshire, and 2 Co-Permittees in New Hampshire). The Draft General Permit Modification is available on EPA Region 1’s website at <https://www.epa.gov/npdes-permits/region-1-draft-small-wastewater-treatment-facilities-general-permit-modification>. The Statement of Basis for the Draft General Permit Modification sets forth principal facts and the significant factual, legal, methodological, and policy questions considered in the development of the Draft General Permit Modification and is also available at this website.

DATES: Public comments must be received by **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Written comments on the Draft General Permit Modification may be mailed to

U.S. EPA Region 1, Water Division, Attn: Michele Duspiva, 5 Post Office Square, Suite 100, Mail Code 06-4, Boston, Massachusetts 02109-3912, or sent via email to: Duspiva.Michele@epa.gov. If comments are submitted in hard copy form, please also email a copy to the EPA contact above.

FOR FURTHER INFORMATION CONTACT: The administrative record and additional information concerning the Draft General Permit Modification may be obtained from Michele Duspiva, U.S. EPA Region 1, Water Division, 5 Post Office Square, Suite 100, Mail Code 06-4, Boston, MA 02109-3912; telephone: 617-918-1682; email: Duspiva.Michele@epa.gov.

SUPPLEMENTARY INFORMATION:

Public Comment Information: Interested persons may submit written comments on the Draft General Permit Modification to EPA Region 1 at the address listed above. In reaching a final decision on this Draft General Permit Modification, the Regional Administrator will respond to all significant comments and make responses available to the public on EPA Region 1's website. All comments must be postmarked or delivered by the close of the public comment period.

General Information: The Draft General Permit Modification includes effluent limitations and requirements for eligible facilities based on technology and/or water quality considerations of the unique discharges from these facilities. The effluent limits established in the Draft General Permit Modification ensure that the surface water quality standards of the receiving water(s) will be attained and/or maintained.

Obtaining Authorization: To obtain coverage under the General Permit, facilities meeting the eligibility requirements outlined in Part I of this General Permit may submit a notice of intent (NOI) in accordance with Part V of this General Permit and 40 CFR § 122.28(b)(2)(i) & (ii). The contents of the NOI shall include at a minimum, the legal name and address of the owner or operator, the facility name and address, type of facility or discharges, the receiving stream(s) and be signed by the operator in accordance with the signatory requirements of 40 CFR §

122.22. Alternately, based on 40 CFR § 122.28(b)(2)(vi), the Director may notify a discharger that it is covered by a general permit, even if the discharger has not submitted an NOI to be covered. EPA has determined that the facilities identified in Attachment E of the Draft General Permit Modification all meet the eligibility requirements for coverage under the Draft General Permit and may be authorized to discharge under the General Permit Modification by this type of notification.

Other Legal Requirements: Endangered Species Act (ESA): In accordance with the ESA, EPA has updated the provisions and necessary actions and documentation related to potential impacts to endangered species from WWTFs being added for coverage under the Draft General Permit Modification. Concurrently with the public notice of the Draft General Permit Modification, EPA has initiated an informal consultation with the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA Fisheries) under ESA section 7, through the submission of a letter and biological assessment (BA) summarizing the results of EPA's assessment of the potential effects to endangered and threatened species and their critical habitats under NOAA Fisheries jurisdiction as a result of EPA's issuance of the Draft General Permit Modification. In this document, EPA has made a preliminary determination that the proposed issuance of the Draft General Permit Modification is not likely to adversely affect the shortnose sturgeon, Atlantic sturgeon, leatherback sea turtles, loggerhead sea turtles, Kemp's ridley sea turtles, green sea turtles, North Atlantic right whales, and fin whales. EPA has requested that NOAA Fisheries review this submittal and inform EPA whether it concurs with this preliminary finding.

In addition, EPA has initiated an informal consultation with the U.S. Fish and Wildlife Service (USFWS) under ESA section 7, through the submission of a letter summarizing the results of EPA's assessment of the potential effects to endangered and threatened species and their critical habitats under USFWS jurisdiction as a result of EPA's issuance of the Draft General Permit Modification. In this document, EPA has made a preliminary determination that the

proposed issuance of the Draft General Permit Modification is not likely to adversely affect the northern long-eared bat. EPA has completed an informal consultation with USFWS regarding the threatened northern long-eared bat, as activities conducted as part of the Small WWTF GP Modification are consistent with activities analyzed in the USFWS January 5, 2016, Programmatic Biological Opinion (PBO).

Essential Fish Habitat (EFH): Under the 1996 Amendments (PL 104-267) to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 et seq. (1998)), EPA is required to consult with NOAA Fisheries if EPA's actions or proposed actions that it funds, permits or undertakes “may adversely impact any essential fish habitat.” 16 U.S.C. § 1855(b). This consultation will only include an analysis of the proposed additional facilities and will not include the facilities that are already covered based on the 2021 issuance of the General Permit. In the Statement of Basis accompanying the Draft General Permit Modification, EPA notes that the general permit action minimizes adverse effects to aquatic organisms, including those with designated EFH in the receiving waters. EFH species associated with the receiving waters of facilities covered by the Draft General Permit Modification may include Atlantic salmon as well as the life stages of a number of coastal EFH designated species, along with two habitat areas of particular concern. EPA has made the determination that additional mitigation is not warranted under Section 305(b)(2) of the Magnuson-Stevens Act and has provided this determination to NOAA Fisheries for their review.

National Historic Preservation Act (NHPA): Facilities which adversely affect properties listed or eligible for listing in the National Registry of Historic Places under the NHPA are not authorized to discharge under the Draft General Permit Modification. Based on the nature and location of the discharges, EPA has determined that all facilities eligible for authorization under the Draft General Permit do not have the potential to affect a property that is either listed or eligible for listing on the National Register of Historic Places.

Coastal Zone Management Act (CZMA): The CZMA, 16 U.S.C. 1451 et seq., and its

implementing regulations (15 CFR part 930) require a determination that any federally licensed activity affecting the coastal zone with an approved Coastal Zone Management Program (CZMP) is consistent with the CZMA.

On June 7, 2021, the Massachusetts CZMP determined that the Small WWTF GP is consistent with its enforceable policies. Concurrent with the public notice EPA will request that the Executive Office of Environmental Affairs, MA CZM, Project Review Coordinator provide a consistency concurrence that the proposed Small WWTF GP Modification is consistent with the MA CZMP.

On June 7, 2021, the New Hampshire Coastal Program (NHCP) determined that the Small WWTF GP is consistent with its enforceable policies. On June 30, 2022, the NHCP determined that any additional facilities that qualify for coverage under the Small WWTF GP are also consistent with its enforceable policies. On June 30, 2022, EPA submitted a formal letter to NHCP describing this determination. Therefore, additional CZMA federal consistency review by the NHCP is not required.

AUTHORITY: This action is being taken under the Clean Water Act, 33 U.S.C. 1251 *et seq.*

David Cash,
Regional Administrator,
EPA Region 1.

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